

## § 46.104

was deposited in the mail in the United States within the time prescribed for filing in an envelope or other appropriate wrapper which was properly addressed with postage prepaid, the return will be considered as timely filed. If the postmark is not legible, the sender has the burden of proving the date when the postmark was made. When registered mail is used, the date of registration will be accepted as the postmark date. When certified mail is used, the date of the postmark on the sender's receipt of certified mail is treated as the postmark date.

(26 U.S.C. 5732, 6011, 6071)

### § 46.104 Method of payment.

Payment of special tax must be made in cash, or by check or money order payable to Alcohol and Tobacco Tax and Trade Bureau. If a check or money order so tendered is not honored when presented for payment, the person who tendered the check or money order will remain liable for the payment of the special tax, and for all penalties and additions, to the same extent as if the check or money order had not been tendered. In addition, unless the person who tendered the check or money order can show that the check or money order was issued in good faith, and with reasonable cause to believe that it would be duly paid, there must be paid as penalty an amount equal to 1 percent of the amount of the check or money order, except that if the amount of the check or money order is less than \$500, the penalty will be \$5, or the amount of the check or money order, whichever is less.

(26 U.S.C. 6311, 6657)

### § 46.105 Receipt for taxes.

Subject to § 46.106, the appropriate TTB officer will issue a receipt to a taxpayer if cash is received as a remittance in payment of special tax (including penalties and interest, if any), or for any type of remittance received if the taxpayer requests a receipt.

### § 46.106 Receipt in lieu of stamp prohibited.

No receipt will be issued in lieu of issuance of a special tax stamp under § 46.116. A receipt may be given only

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pending the issuance of a stamp, or where the tax liability relates to a prior tax year.

(26 U.S.C. 6314)

### § 46.107 Penalty for failure to file return or to pay tax.

(a) *Failure to file return.* Any person required by this subpart to file a return on TTB Form 5630.5t who fails to file the return on or before the date for filing prescribed in § 46.103 must pay, in addition to the tax, a delinquency penalty, unless it is shown that such failure is due to reasonable cause and not due to willful neglect (see § 46.109). The delinquency penalty for failure to file the return on or before the last date prescribed will be 5 percent of the amount required to be shown as tax on the return if the failure to file is for not more than one month; with an additional 5 percent for each additional month or fraction thereof during which the delinquency continues, but not more than 25 percent in the aggregate.

(b) *Failure to pay tax.* Any person who files a return on TTB Form 5630.5t under this subpart and who fails to pay the amount shown as tax on the return on or before the date prescribed in § 46.103 for payment of such tax, must pay a penalty, in addition to the tax, unless it is shown that such failure is due to reasonable cause and not due to willful neglect (see § 46.109). The penalty for failure to pay the tax on or before the date prescribed for payment is 0.5 percent of the amount shown as tax on the return if the failure to pay is not for more than one month; with an additional 0.5 percent for each additional month or fraction thereof during which the failure continues, but not more than 25 percent in the aggregate. Any person required to pay the special tax who willfully fails to pay the tax shall be fined not more than \$5,000, or imprisoned not more than 2 years, or both, for each such offense.

(c) *Limitations.* With respect to any return on Form 5630.5t, the amount of the addition under paragraph (a) of this section will be reduced by the amount of the addition under paragraph (b) of this section for any month to which an addition to tax applies under both paragraph (a) and paragraph (b) of this section. If the amount of tax required